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Committee on Energy and Commerce

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Hearing on the Status of the DTV Transition – Part 3

TESTIMONY OF PATRICK KNORR

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INTRODUCTION

Thank you, Mr. Chairman and members of the Subcommittee.

My name is Patrick Knorr, and I am General Manager of Sunflower Broadband, an independent cable business based in Lawrence, Kansas. We serve about 35,000 customers, providing a full suite of services -- cable television, digital cable, high-speed internet, local phone service, digital video recorders and other advanced services. Our service area includes the City of Lawrence and The University of Kansas, home of the Jayhawks, and several smaller communities in the region, including Linwood, Kansas, population 374. As I hope you will appreciate, thanks to my company, there is no digital divide in Linwood and the other small towns we serve.

I am also the Chairman of the American Cable Association (ACA). In a communications world dominated by industry giants, ACA is the voice for nearly 1,100 small and medium-sized cable companies. Together, these companies serve about 8 million households and small businesses. ACA members range from family-run cable businesses serving a single community to multiple system operators that focus on smaller markets and rural areas. The average ACA member operator serves about 7,500 subscribers, but the average system serves less than 2,000, and many serve as few as several hundred homes.

Small cable operators are important businesses in their communities. Along with broadcast and cable programming, many of our members offer unique local programming, such as high school sporting events and religious services that are not carried by other operators. In addition, our members are rolling out high-speed Internet access and Voice over Internet Protocol phone service in areas where the service is not currently available.

Small cable operators are committed to ensuring a successful digital transition. ACA and its members know they have a role in educating consumers about the transition to ensure those who rely on over-the-air broadcast service know about their options well in advance of analog broadcast service ending.

While we recognize education is an integral component of a successful transition, we also know the switch to digital it will impose unique burdens on small cable operators and their customers, which, if not appropriately dealt with, will cause harm to consumers, especially in small and rural markets.

DIGITAL TELEVISION TRANSITION EDUCATION

To reduce consumer disruption associated with the digital transition, ACA is providing information to its members and consumers about the broadcasters' switch to digital, and we intend to do more in the next year. Already some of our larger members are airing public service announcements about the transition on their systems.

To educate our members, the ACA has already hosted two events this year focused on the digital television transition. At our Independent Show – an annual gathering of small cable operators from across the country – the ACA held an educational panel discussion on the digital television transition, which included representatives from the programming, cable, and consumer electronics industries. More recently, the ACA hosted an event in Washington, D.C., where NTIA's Assistant Secretary for Communications and Information, John Kneuer, spoke to our members about the transition and the Digital-to-Analog Converter Box Coupon Program.

The American Cable Association is also an active member of the Digital Television Transition Coalition comprised of business, trade and industry groups that are working together to ensure as little disruption as possible for consumers during the transition. Today, the ACA prominently features a large graphic link to the DTV Transition website on our homepage, and one to their "Are You Ready?" document geared toward consumers.

The small cable industry will continue these and other efforts, and we look forward to reporting back to Congress on our progress.

THE FCC'S DUAL-CARRIAGE OBLIGATION

Small cable operators want to continue offering all broadcast stations to their subscribers after the digital transition, including must-carry stations. For this reason, the ACA filed comments with the Federal Communications Commission seeking flexibility to convert the broadcaster's digital signal to analog.

In September, to our dismay, the Commission adopted new rules that force many cable operators to offer must-carry broadcasters' signals in both analog and digital – a dual-carriage obligation – after the digital television transition on February 17, 2009.

For the foreseeable future, it is a financial impossibility for many small cable systems to comply with this Order. The dual-carriage obligation would require operators to purchase costly equipment and set aside additional bandwidth, which will impact consumers who will not receive any new signals in return. Many small systems do not generate the revenue necessary to support this costly equipment, and others do not have the capacity to spare to carry each must-carry broadcasters' signal on two channels. The Commission erred in not providing greater relief for small operators.

While the Order permits cable systems with channel capacity of 552 megahertz or less to file a waiver from the dual-carriage obligation, it unfairly requires systems with limited financial resources to engage in and pay for a process at the FCC with an unsure outcome, as our industry recently learned with respect to the ban on integrated set-top boxes. If an operator can't afford equipment, what makes the Commission think they can afford a lawyer?

In 2005, this Committee passed legislation that included an outright exemption for bandwidth-constrained systems, but the provision was stripped from the final bill because of procedural rules in the Senate. In 2006, the Senate Commerce Committee passed legislation with a similar exemption, but that bill never passed because of unrelated factors. At a minimum, we believe that the Commission should have carried out the will of House and Senate Commerce Committees.

The FCC plans to issue a Further Notice of Proposed Rulemaking on this Order's impact on small operators, and we urge Members of this Committee to either pass legislation providing an outright exemption for small operators, or weigh in with the FCC urging them to devise more flexible rules for systems with both a small base of subscribers and those with limited channel or bandwidth capacity.

TRANSITIONAL FUNDING FOR CABLE OPERATORS CONVERSION TO DIGITAL TELEVISION

All small cable operators want to provide consumers with digital television services.

Unfortunately, owners of some systems can neither afford to upgrade their facilities nor purchase the digital set-top boxes necessary to offer these advanced services. For systems with a limited number of subscribers, the cost to provide digital service cannot be recouped in the current marketplace. These systems, often located in smaller markets and rural areas, will have no choice but to provide their subscribers with an analog-only service for the foreseeable future.

Across the country, there are thousands of these analog-only cable systems. In the coming years, some of these systems will find ways to provide digital services, but many will not. Those that cannot afford to upgrade will eventually bow to the competitive pressure of the two satellite providers, and shut down their facilities. The loss of a local cable company would deny consumers with a once viable third competitor, and the only operator providing community programming, and more importantly, one that can offer broadband service.

Small cable operators are a vital part of rural America, especially in bridging the digital divide. We urge Congress to find ways to help small operators provide digital services to consumers in smaller markets and rural areas. In the Deficit Reduction Act of 2005, Congress recognized the financial hardship that low-power and translator stations faced in upgrading their facilities from analog to digital and set aside \$75 million to assist in their transition. The ACA believes that a similar program should be considered to help small cable operators, who represent an important link in the television chain in rural America.

Assisting small cable operators in their efforts to upgrade to digital ensures that more consumers across the country have the opportunity to receive high-definition television from their local broadcasters. In the *smallest television markets*, consumers who live outside the contour of their local broadcast signals can only receive these stations from a digital cable provider. These channels are not available from satellite TV providers because these operators do not have the bandwidth to offer local HD broadcast signals to consumers in these small markets, and will not in the future. In fact, neither satellite TV provider today offers any local broadcast service in more than 30 of the smallest markets. In order to ensure that rural

Americans can receive local broadcast service in HD, we look to Congress to help the small cable operators' transition from analog to digital.

Chairman Markey and members of the Committee, thank you again for the opportunity to testify on this topic of importance to small cable operators and consumers.